

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MARLAN PENTON,)	
)	
Petitioner,)	
)	
v.)	No. 4:19-CV-816 PLC
)	
EILEEN RAMEY,)	
)	
Respondent)	

MEMORANDUM AND ORDER

Marlan Penton petitions the Court for a writ of habeas corpus under 28 U.S.C. § 2254. The petition is successive, and will be dismissed pursuant to Rule 4 of the Rules Governing § 2254 Proceedings.

On January 25, 2002, petitioner was convicted of attempted escape by the Circuit Court of St. Francois County, Missouri, and sentenced to five years imprisonment, to run consecutively with the sentences he was already serving. *State v. Penton*, No. 24R050000092 (24th Judicial Circuit, St. Francois County). Petitioner did not appeal the conviction.

Petitioner did not file his post-conviction motion with the Circuit Court of St. Francois County, Missouri, until April 30, 2003. The court dismissed the petition on July 22, 2003. Petitioner appealed to the Missouri Court of Appeals, Eastern District of Missouri. The Court of Appeals in turn dismissed the appeal on March 31, 2004, because petitioner had failed to perfect his appeal.

Thereafter, on January 20, 2009, petitioner filed a petition for writ of habeas with the Circuit Court of St. Francois County. That petition for writ of habeas corpus was denied on March 25, 2009. On February 7, 2012, petitioner filed a petition for writ of habeas corpus with

the Missouri Court of Appeals, Eastern District. Petitioner was met with another denial on February 15, 2012. Finally, on December 17, 2012, petitioner filed a petition for writ of habeas corpus with the Missouri Supreme Court which was denied on January 29, 2012.

On March 19, 2013, petitioner placed his application for writ of habeas corpus in the mailing system at Eastern Reception, Diagnostic and Correctional Center (“ERDCC”). The instant Court denied and dismissed the application for writ on May 20, 2014. *Penton v. Russell*, No. 4:13-CV-554 HEA (E.D.Mo.). Petitioner appealed the denial of the writ, and his application for certificate of appealability was denied on October 1, 2014 by the Eighth Circuit Court of Appeals. *Penton v. United States*, No. 14-2324 (8th Cir. 2014).

To the extent that petitioner seeks to relitigate claims that he brought in his original petition, those claims must be denied pursuant to 28 U.S.C. § 2244(b)(1). To the extent that petitioner seeks to bring new claims for habeas relief, petitioner must obtain leave from the United States Court of Appeals for the Eighth Circuit before he can bring those claims in this Court. 28 U.S.C. § 2244(b)(3)(A). Petitioner has not been granted leave to file a successive habeas petition in this Court. As a result, the petition is dismissed.

Finally, petitioner has failed to demonstrate that jurists of reason would find it debatable whether the petition is successive. As a result, the Court will not issue a certificate of appealability. 28 U.S.C. § 2253(c).

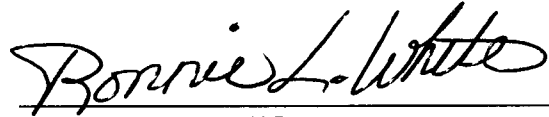
Accordingly,

IT IS HEREBY ORDERED that petitioner’s request to proceed in forma pauperis [Doc #2] is **GRANTED**.

IT IS FURTHER ORDERED that the application for writ of habeas corpus under 28 U.S.C. § 2254 is **DENIED**, and this action is **DISMISSED AS SUCCESSIVE**.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

Dated this 5th day of April, 2019.

A handwritten signature in black ink, reading "Ronnie L. White". The signature is written in a cursive style with a large, stylized "R" and "W".

RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE